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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,736	06/25/2001	Petar R. Dvornic	MIC35 P-321	2078
277	7590	04/19/2004	EXAMINER	
PRICE HENEVELD COOPER DEWITT & LITTON, LLP 695 KENMOOR, S.E. P O BOX 2567 GRAND RAPIDS, MI 49501			MULLIS, JEFFREY C	
			ART UNIT	PAPER NUMBER
			1711	

DATE MAILED: 04/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/888,736	Applicant(s) DVORNIC ET AL. 
	Examiner Jeffrey C. Mullis	Art Unit 1711

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 March 2001 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: SEE ATTACHMENT.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: ____.

Claim(s) objected to: ____.

Claim(s) rejected: 1-5, 12-17 and 24.

Claim(s) withdrawn from consideration: ____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Jeffrey C. Mullis
J Mullis
Art Unit: 1711

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Applicant's arguments filed 3-23-04 have been fully considered but they are not deemed to be persuasive.

The Examiner has reviewed MPEP § 715.02 but sees nothing that indicates that a 131 Declaration which does not show the identical disclosure of the reference can be used to overcome a rejection without establishing that the differences between the affidavit and the reference was an obvious modification. The cited section of MPEP § 715.02, namely "General Rule as to Generic Claims" merely recites that "in most cases" that a Declaration under 37 CFR 1.131 showing a single species within a genus prior to the date of the reference may be sufficient. It is not clear that the qualification "in most cases" refers merely to unpredictable arts since the section and title "General Rule as to Generic Claims" does not elaborate. It is not, nor has it ever been, the position of the Examiner that applicant necessarily could overcome the rejection only by showing prior completion of the genus shown in the reference. However applicant's only evidence in his Declaration under 37 CFR 1.131 was a showing that he was in possession of one or more species. Applicant did not attempt to establish, using that showing, that he was in possession of the claimed genus. No attempt at indirectly antedating the reference was attempted. It is the position of the Examiner that attempts indirectly antedate the

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reference based on the 131 Declaration are proper (although not necessarily persuasive). However with regard to applicant's disclosure in paragraph 18 and paragraph 20 of the specification, applicant's specification is not prior art nor do paragraphs 18 and 21 of the specification involve admissions regarding prior art. With regard to U.S. Patent 5,731,095, this patent does not disclose the species of Heilmann et al. who discloses numerous dendritic polymers having a large array of functional groups at paragraph 83. Likewise, Gaddam et al. is not particularly limited and discloses numerous specific coreactive groups at the paragraph bridging columns 8 and 9 not all of which are shown in either '095 or '630.

Applicant argues that applicant is not claiming the same invention as is claimed in either Gaddam et al. or Heilmann et al. With regard to Gaddam et al., the Examiner agrees that Gaddam et al. is not claiming the same thing as applicant and therefore a proper 131 Declaration could conceivably overcome Gaddam et al. With regard to Heilmann et al., applicant points to applicant's melt processability temperatures. However, applicant's specification discloses numerous examples of the materials which cure at 120° below and therefore could be said to be melt processable in that a non-cured material can still be thermoformed.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Mullis whose telephone number is (571) 272-1075. The examiner can normally be reached on Monday-Friday from 9:30 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on (571) 272-1078. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-0994.

J. Mullis:cdc

April 15, 2004

Jeffrey Mullis
Primary Examiner
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